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**U.S., PANAMA AGREE ON
PRINCIPLES FOR CANAL NEGOTIATIONS**

**EMBARGOED FOR [REDACTED] RELEASE
UNTIL 3:30 PM. (E.D.T.) February 7, 1974**

The Statement of Principles signed today by Secretary of State Kissinger and Foreign Minister Tack of Panama opens a new phase in the negotiations between the United States and Panama on a modern canal treaty.

In September 1973 Secretary Kissinger charged Ambassador at Large Ellsworth Bunker with renewing discussions with Panamanian officials for the purpose of arriving at a common approach to future treaty negotiations. Ambassador Bunker visited Panama November 26 to December 3, 1973 and again on January 6 and 7, 1974 to discuss with Panamanian Foreign Minister Tack general principles upon which a new treaty might be based. These discussions have resulted in the Statement of Principles of February 7.

The principles will serve as guidelines for the next round of treaty talks which are expected to get under way in the near future. The principles are general in character and do not address the many specific issues involved in defining the new treaty arrangement. These remain to be negotiated.

The United States welcomes the agreement on principles as a demonstration of how two countries with shared purposes can reach an understanding which fairly balances their interests, rights, and obligations.

Following is the text of the Joint Statement and a background paper on the status of the Panama Canal treaty negotiations :

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JOINT STATEMENT BY THE HONORABLE HENRY A. KISSINGER,
SECRETARY OF STATE OF THE UNITED STATES OF AMERICA,
AND HIS EXCELLENCY JUAN ANTONIO TACK, MINISTER OF
FOREIGN AFFAIRS OF THE REPUBLIC OF PANAMA, ON
FEBRUARY 7, 1974 AT PANAMA

The United States of America and the Republic of Panama have been engaged in negotiations to conclude an entirely new treaty respecting the Panama Canal, negotiations which were made possible by the Joint Declaration between the two countries of April 3, 1964, agreed to under the auspices of the Permanent Council of the Organization of American States acting provisionally as the Organ of Consultation. The new treaty would abrogate the treaty existing since 1903 and its subsequent amendments, establishing the necessary conditions for a modern relationship between the two countries based on the most profound mutual respect.

Since the end of last November, the authorized representatives of the two governments have been holding important conversations which have permitted agreement to be reached on a set of fundamental principles which will serve to guide the negotiators in the effort to conclude a just and equitable treaty eliminating, once and for all, the causes of conflict between the two countries.

The principles to which we have agreed, on behalf of our respective governments, are as follows:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.
2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.
3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.
4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right to use the lands, waters, and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.
5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal in its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.
6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal

upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal, to operate, maintain, protect and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.
8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in principle 2.

BACKGROUND AND STATUS OF THE PANAMA CANAL TREATY NEGOTIATIONS

The United States and Panama are currently involved in negotiations for a new treaty to replace the Treaty of 1903 relating to the Panama Canal.

In that treaty Panama granted to the United States -- in perpetuity -- the use of a 10-mile wide zone of Panamanian territory for the "construction, maintenance, operation and protection" of a canal, as well as all the rights, power and authority within that zone which the United States would "possess if it were the sovereign." The very favorable treaty for the United States was the major reason for its decision to build the canal in Panama rather than in Nicaragua as initially planned.

Value of Canal

Since its opening in 1914, the canal has provided benefits to the United States, to Panama, and to the world without any increase in toll rates. The first increase (19.7% effective July 1, 1974) has recently been proposed by the Panama Canal Company because of current and projected losses due to recent increases in operating costs. In fiscal year 1973 the company sustained a net operating loss of more than \$1 million.

Some 70 percent of the tonnage through the canal in recent years has either originated in, or been destined for, the United States. That tonnage has represented about 16 percent of the total of U.S. export and import tonnages. The proportions of exports and imports which move through the canal to and from the Latin American countries bordering upon the Caribbean and the Pacific, however, greatly exceed the U.S. proportion of 16 percent.

The canal has also served Panama well. Panama's position in the world is, in large measure, the result of the existence of the canal in its territory. More than 40 per cent of Panama's foreign exchange earnings, and nearly one-third of its gross national product, are directly or indirectly attributable to the presence of the canal.

Panamanian Treaty Concerns

Panama has been dissatisfied with the treaty for many years. Part of this dissatisfaction has derived from Panama's views of two aspects of the negotiation of the Treaty of 1903: (1) that Panama's dependence upon the United States to protect its new-found independence from Colombia placed it in a position in which it felt that it had to accede to U.S. desires respecting the content of the treaty; and (2) that Panama's principal negotiator was a Frenchman who stood to benefit considerably if the United States purchased the private French concession to build a trans-isthmian canal.

Over the years, Panama has also charged that the United States has unilaterally interpreted the treaty to Panama's disadvantage, and given Panama an inadequate share of the benefits from the operation of the waterway. Even more objectionable in Panama's view are the provisions in the Treaty of 1903 which give governmental jurisdiction within a portion of Panamanian territory to a foreign power in perpetuity.

The United States has responded sympathetically to some of these Panamanian concerns. In 1905 it recognized Panama's titular sovereignty

over the Canal Zone. The treaty was revised in 1936, and again in 1955, to provide Panama with a greater share of the economic benefits of the canal and to remove certain outdated aspects, such as the right granted to the United States to interfere, when it believed necessary, in Panama's internal affairs. Despite these modifications, however, many of the features of the treaty most objectionable to Panama remain unchanged.

The canal has become the major political issue in Panama, and the intensification of Panama's campaign for more favorable treaty terms in recent years has produced tensions in U.S.-Panamanian relations. In 1964 a flag-raising incident in the Canal Zone led to riots which resulted in the death of 20 Panamanians and 4 Americans and brought the Panama Canal issue to the attention of the United Nations and the Organization of American States (OAS).

Bilateral Negotiations on New Treaty

Following discussion of the issue in the OAS, UN, and other international agencies, the U.S. and Panama agreed in 1964 to begin bilateral negotiations for a new treaty. In so doing, the U.S. recognized that a comprehensive modernization of its relationship with Panama corresponded to its long-term national interests and to a changing international environment.

U.S. officials entered the negotiations in late 1964 with three basic objectives:

- The canal should continue to be available to the world's commercial vessels on an equal basis at reasonable tolls;
- it should be operated and defended by the United States for an extended, but definite, period of time;
- it should serve world commerce efficiently. To this end, the United States should have the right to provide additional canal capacity when it is needed.

By 1967, the negotiators of both countries had prepared three draft treaties. They provided for operation of the present canal under a joint U.S.-Panamanian authority; for construction and operation of a sea-level canal under a similar joint authority; and for U.S. defense of the old and new canals for the duration of each treaty. Neither Panama nor the United States Government moved to ratify these treaties, and the new government headed by General Omar Torrijos, which assumed power in October 1968, formally rejected them.

In 1970 the Government of Panama requested the renewal of negotiations and the U.S. agreed. President Nixon established negotiating objectives similar to those set by President Johnson in 1964, although modified by developments since that time. The objectives and positions of the United States thus reflect a bipartisan approach to treaty negotiations with Panama. They also are consistent with the broader policy stated in the President's 1972 Foreign Policy Report to the Congress. In that report he made it clear that our policy is not to seek to dominate Latin American nations but rather to develop with them a mature and stable partnership.

The Panamanian negotiating team arrived in Washington in June, 1971. Intensive negotiations during the rest of the year resulted in a U.S. treaty offer covering most of the issues relevant to the treaty. The Panamanian negotiators carried the offer to Panama for review in December, 1971. Except for some informal conversations in March, 1972, and an exchange of correspondence in the fall, the negotiations were not resumed until December, 1972, when a U.S. delegation travelled to Panama.

The new talks were not productive. Panama presented the United States with a comprehensive reply to its offer of December, 1971, but in many respects Panama's proposal reflected its maximum treaty aspirations and did not acknowledge the proposed compromise developed during the negotiations in 1971. Although disappointed, the United States agreed to study the offer and provide a written response, which was delivered in February, 1973.

UN Security Council Action

At Panama's initiative, the U.N. Security Council met in Panama City from March 15-21. In those sessions, Panama criticized the U.S. posture on the canal question and sought a resolution supporting its position. Thirteen nations voted for the resolution; the U.K. abstained. The United States vetoed the resolution on the grounds that it recognized Panama's needs but not those of the United States; that it was incomplete in its references to the negotiations; and that it was inappropriate because the treaty was a bilateral matter under amicable negotiations. In explaining the U.S. position, the U.S. Permanent Representative committed the United States to peaceful adjustment of its differences with Panama, and invited Panama to continue serious treaty negotiations.

New U.S. Approach

After his first visit to Panama in November, 1973, Ambassador Bunker recommended that the United States initiate some changes in the nature of the U.S. presence in the Canal Zone without awaiting the conclusion of a new treaty. With concurrence by the Departments of State and Defense, President Nixon announced on December 28 his intention to submit legislation to the Congress seeking the delivery to Panama of title and jurisdiction over two unused World War II airfields -- Old and New France Fields -- as well as authorization for the sale of Panamanian lottery tickets in the Zone. The lands in question will be of significant economic benefit to Panama. These legislative requests provide a tangible sign that the United States is prepared to adjust old ways in the Canal Zone to new realities and to conclude a new and modernized treaty relationship with Panama.

Any treaty agreed upon by the negotiators and approved by the Executive Branch will be submitted to the Senate for approval, and it is expected that some implementing legislation by the Congress as a whole would be required. Panama has expressed the intention to ratify the new treaty by plebiscite to ensure that it is acceptable to the Panamanian people.

Issues in the Negotiations

The United States and Panama agree that the Treaty of 1903 should be replaced by a modern treaty that rejects the concept of perpetuity and

accommodates the sovereignty of Panama with the interests of the United States, on the understanding that U.S. control and defense of the Panama Canal would continue for a period of fixed duration. Despite this agreement in principle, the two negotiating delegations have thus far been unable to reach an agreement acceptable to both governments on the major issues involved. These are:

1. Duration. The United States has proposed that the new treaty provide for continued U.S. control and defense of the present canal for an extended but specific period of time, with provision for further extension in connection with expansion of canal capacity at U.S. expense. Panama has proposed that the new treaty be for a shorter period than that desired by the United States, and has thus far made no proposal for extension in connection with expansion of capacity.

2. Jurisdiction. The United States has proposed that Panamanian law and jurisdiction would be applied in the Canal Zone, in some areas immediately, in others over a period of years. Lands now part of the Zone would also be opened up to Panamanian development. The United States would retain only rights which are necessary to the execution of its responsibilities. Panama has accepted this concept in principle, but the extent and duration of U.S. rights remain to be negotiated.

3. Expansion of Capacity. Current projections indicate that additional capacity will not be needed until the end of this century. The United States seeks long-term options (a) to add a third lane of locks to the present canal and (b) to build a new sea-level canal. Panama has wanted the United States to make a commitment to start construction within a shorter period or lose all expansion rights.

4. Land and Water Areas. The United States has proposed that Canal Zone lands and facilities not needed for canal operation and defense should be relinquished to Panama. The area still used by the United States for canal operations would be open to Panamanian Government and private activities under arrangements to be established by treaty and would be integrated into the jurisdiction, culture, and economy of Panama. Panama has thus far proposed that the United States control a much smaller area for canal operations and defense than the United States considered necessary.

5. Defense. The United States and Panama have agreed that the United States will continue to defend the canal and that Panama will participate. The extent of U.S. defense rights and the nature of Panama's participation remain to be negotiated.

6. Compensation. The United States has proposed that the current \$2 million annual payment to Panama be replaced by a royalty on tonnage that would yield about \$25 million per annum at current traffic rates, and increase as traffic increases. Panama has indicated that the payments proposed by the United States should be greater, but has not specified a formula or an amount that it would consider adequate.